

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

----- X
ANAND DASRATH,

Case No.: CV 07 2433

Plaintiff, (C. Amon)
- against - (R. Reyes)

ROSS UNIVERSITY SCHOOL OF MEDICINE,

Defendant.

-----X

STATE OF NEW JERSEY)
) SS.:
COUNTY OF MIDDLESEX)

NANCY A. PERRI, M.D., being duly sworn, deposes and says:

1. I am Vice President of Academic Affairs at Ross School of Medicine School of Veterinary Medicine Limited, sued herein as Ross University School of Medicine ("Ross University" or "Defendant"), the defendant in this matter. I submit this affidavit in support of Defendant's motion to dismiss pursuant to F.R.C.P. 12 (b)(1) and (6).

A. Plaintiff Failed A Required Course And Failed To Re-Take That Course

2. Plaintiff was a medical student at Ross University. He was administratively deemed to have withdrawn from Ross for his failure to pass a course required to graduate.

3. Plaintiff failed the Advanced Introduction to Clinical Medicine ("AICM") course which is required before a student can graduate. Plaintiff admits he received a failing grade.

See Amended Complaint ¶9. He disputes this grade in this lawsuit.

4. Despite his failing grade, plaintiff failed to re-enroll in the semester immediately following his failure to re-take the AICM as required by the Ross University School of Medicine Student Handbook of Academic Rules and Regulations (“Handbook”). The Handbook holds all students to the rules outlined therein.

5. The Handbook provides that an administrative withdrawal is required when the student does not return to campus to register for the following semester. See page 23 of the Handbook. A copy of the Handbook in effect at all times relevant to the Amended Complaint is attached hereto as Exhibit “A”.

6. Plaintiff’s failure to re-enroll in order to successfully complete the AICM course is an act of withdrawal from Ross.

7. As such, Ross was required to administratively withdraw plaintiff from the university, effective the last day of the failed class.

B. Plaintiff Was Ineligible to Take The USMLE Step 1 Exam

8. For foreign medical school graduates to become licensed to practice medicine in the United States, students are required to take several qualifying exams.

9. The United States Medical Licensing Examination Step 1 exam (“USMLE Step 1 Exam”) is the first of these exams.

10. As stated above, Plaintiff failed the AICM course and failed to retake the AICM course. Successful completion of this course, however, is required to participate in the USMLE Step 1 Exam.¹

¹ The Exam is administered by an agency known as the Educational Commissioner for Foreign Medical Graduates – not by Ross University.

11. The Handbook provides that in order to be eligible to take the USMLE Step 1 Exam, the student must have passed all courses in the first four semesters and successfully completed the AICM. See page 13 of the Handbook.

12. Plaintiff's failure of the AICM course and his administrative withdrawal from Ross resulted in Plaintiff becoming ineligible to take the Exam despite his attempts otherwise. See pgs. 11 and 23 of the Handbook.

C. Plaintiff Has Never Provided Defendant With Notice Pursuant to 42 U.S.C. § 6104


13. Prior to commencing this action, Plaintiff was required to provide notice of the action, by registered mail, to the Secretary of Health and Human Services, the United States Attorney General, and Ross University thirty (30) days prior to commencing the action. This notice must set forth the alleged violation of the ADA, the relief requested, the court in which the action shall be brought, and whether attorney's fees will be demanded. 42 U.S.C. § 6104.

14. Plaintiff has not provided Ross University with the notice required under 42 U.S.C. § 6104.

15. For the reasons set forth herein and in the accompanying memorandum of law, plaintiff's complaint should be dismissed.


NANCY A. PERRI, M.D.

Sworn to before me this
21st day of July, 2009.


Notary Public

